
TESTIMONY AND INFORMATION OPPOSING HB4674 AND URGING CONSTITUTIONALLY
REQUIRED REFORMS OF THE MENTAL HEALTH CODE

HB 4674 WOULD MAKE VULNERABLE DISABLED PERSONS EVEN MORE VULNERABLE TO ABUSE, ASSAULT, BATTERY, COERCION/EXTORTION, CRIMINAL CONSTITUTIONAL RIGHTS VIOLATIONS, CRIMINAL DEFAMATION, DRUG COMPANY CORRUPTION, HATE CRIMES, HEALTH CARE FRAUD, INTIMIDATION, MALICIOUS PROSECUTION, OBSTRUCTION OF JUSTICE, OFFICIAL MISCONDUCT, OPPRESSION, PERJURY, MALPRACTICE, AND IS UNCONSTITUTIONAL

The patient who has consumed psychiatric drugs and has experienced them to be harmful, unhelpful or counter-therapeutic is the direct witness/informant on the quality and medical appropriateness of the drugs for that person. The scientific evidence overwhelmingly corroborates the truthfulness, accuracy and validity of those who report psychotropic drugs to be mentally and physically harmful rather than helpful. Antipsychotic drugs (APDs) are the primary medical treatment for those labeled seriously mentally ill, and these drugs are especially harmful to mental and physical health. Doctors who testify in court that the patient who witnesses and reports psychotropic drugs to be harmful or unhelpful is lying, or is out of touch with reality, or is thereby mentally incompetent, should be arrested and prosecuted for perjury and obstruction of justice. Doctors who testify that patients who report psychotropic drugs to be harmful or unhelpful (i.e. non-compliant or object to treatment with the drugs) should be subjected to forced out-patient or forced in-patient drugging, should themselves be arrested and prosecuted for health care fraud, assault, extortion/coercion, abuse, conspiracy, and civil rights violations.

Prosecutors, judges, and investigators should be put on notice to arrest these crooked Doctors. Prosecutors and judges who fail to see these Doctors arrested and instead collaborate in an illegal an unconstitutional effort to forcibly subject a witness/informant to the fraudulent quality of psychotropic drugs to these dangerous drugs, should themselves be arrested and prosecuted. They should be arrested for official misconduct, neglect of duty, using perjurious testimony, obstruction of justice, criminal civil rights, hate crimes, and conspiracy or accomplices to the Doctors offenses. And they should be removed from office and disbarred. Additionally, the MH Code should be reformed to assure that Doctors, prosecutors, and judges caught illegally committing persons and/or assaulting them with psychotropic drugs, should be subjected to civil liability. Until immunity from civil justice is revoked, criminal prosecution of these actors is especially important.

US Sentencing Guidelines inform us that these crimes are worse crimes when committed against disabled or vulnerable victims. Worse crimes when govt. power or professional trust is abused. Worse crimes when it is part of a systemic or pervasive corruption of govt.l function or process. Worse crimes when public officials (judges, prosecuting attorneys, agency administrators) are involved. Worse crimes when force is used in furtherance of discrimination, and worse crimes when committed to facilitate or conceal other crimes.

The witnessed accounts and the uncorrupted scientific evidence on APDs reveals that the drugs are extraordinarily mentally and physically harmful and counter-therapeutic. APDs often cause great emotional distress and worsen quality of life. Historically called "major tranquilizers", APDs cause misery not tranquility. APDs can and often do cause anguish, suffering, torment, agitation, unhappiness, depression, fatigue, tiredness, stupor, social withdrawal, difficulty in concentrating and learning, impairment of memory and ability to think and communicate, and APDs can cause or worsen psychosis, suicides and violence. APDs also cause brain damage and atrophy, heart attacks, strokes, blood clots, EKG abnormalities, tardive dyskinesia, neurological damage, metabolic disruption causing diabetes and hypothermia and hormonal imbalances causing boys to grow breasts. APDs reduce life expectancy by decades, are toxic to every organ in the body, cause damage to unborn babies in pregnant women, and cause many other harms. Doctors may say these are just side effects, but the law calls them injuries/damages which require compensation/remedy.

The few Doctors admitting to sampling antipsychotic drugs have described the effects as horrific, causing severe anxiety, depression, and rendering themselves unable to function mentally. Any Doctor caught disputing the harmful counter-therapeutic quality of the drugs should be asked to take an injection of the drugs themselves. They should also be asked how much money or things of value drug companies have given them to prescribe psychiatric drugs. Drug companies pay more money to Doctors to get them to prescribe their drugs than it costs to educate every medical student in America. Psychiatrists are the highest paid off specialty. APDs are far more harmful and deadly than cigarette smoking, and are probably the worst medical fraud in US history.

Upon study, APDs look like a public health menace and forced infliction looks like a violent felony. But can it be argued that APDs are just forced on dangerous crazy people who deserve what they get? Civil commitments do not authorize the infliction of harm or punishment or the stripping of rights and dignity-this is called abuse. Civil commitments are designed to protect persons from harm, not to force them to suffer harm. The problem with forced APD drugging is that usually only the patient can know if the drugs help or the contrary, or whether benefits outweigh harms. The Doctor who says the drugs are helping when the consumer says the drugs are harming is lying, as is the Doctor who says they can predict persons will benefit from the drugs. Science now tells us that the majority of persons will gain no benefit from APDs, and the higher the dose, and the longer APDs are prescribed the more harmful they are. Prescribing APDs along with other drugs, polypharmacology (sometimes with other APDs) is very common and even more harmful and dangerous to the patient. Do we really want dishonest, (and financially biased to prescribe) Doctors to have the power to destroy the lives of patients they don't like? Doctors are ethically obligated to use drugs only to benefit health and not to harm.

HB 4674 would make 1401(c) and (d) clearly unconstitutional. HB 4674 proposes to reform 1401(c) by shifting to a more subjective mental illness and undefined harm standard, instead of a behavioral significant physical harm standard, based on nothing more than competent clinical opinion and a person's opposition to a treatment. HB 4674 seeks to expand the use of similarly constitutionally invalid 1401(d). The use of state powers to judge and control thoughts and expression is exactly what is most prohibited by the 1st and 14th Amendments. "At the heart of the 1st Am. is the notion that an individual should be free to believe as he will and that in a free society one's beliefs should be shaped by his mind and conscience rather than coerced by the state." *ABOOD V DETROIT*, 431 US 209. "Our whole constitutional heritage rebels at the thought of giving govt. the power to control men's minds." *STANLEY V GEORGIA*, 394 US 557. "Regulations which permit the govt. to discriminate based on the content of the message cannot be tolerated under the 1st Am... even if the ideas are offensive or disagreeable." *SIMON & SCHUSTER V CVB*, 502 US 105. "The courts may not interfere on the grounds that they view a particular expression as unwise or irrational." *DEM PARTY V WISCONSIN*, 450 US 107. Thus HB 4674 takes 1401(c) in the wrong direction of regulating thoughts and beliefs rather than conduct. *CANTWELL V CONN.*, 310 US 296.

HB 4674 should also be rejected, and 1401(c)(d) repealed, because they use a person's objection to or non-compliance with treatment as a basis for commitment. A person's preference for liberty, privacy, dignity, respect, recovery-model interventions, self-determination, consumer control, person-centered planning which honors the individual's preferences, and desire not to be assaulted with notoriously harmful, intrusive and counter-therapeutic antipsychotic drugs is a preposterous and circular basis for commitment. A patient who has tried APDs and objects to them because APDs don't help him/her proves medical fraud, not that they lack understanding. 42 USC 241,242 prohibits retaliation for the exercise of constitutional rights. Psychiatric commitment or assault with harmful fraudulent psychotropic drugs because a person asserts a right to refuse the drugs, or because the individual has vastly different views than the Doctor about the quality and value of the drugs is a felony crime. "In the realm of private speech or expression, govt. regulation may not favor one speaker over another...Viewpoint discrimination is thus an egregious form of content discrimination." *ROSENBERGER V UNIV VA*, 515 US 819.

HB 4674 must be rejected and 1401d must be repealed because they are prohibited by the Constitutions. No person can lawfully be committed to prevent "relapse" or "harmful deterioration" or undefined, unspecified "harm", especially when based on subjective opinions rather than on objective facts.

HB4674 removes 1401c's immediate significant physical harm requirement so that it fails the 1st Am.'s **serious**, likely, and imminent danger test. **BRANDENBERG V OHIO**, 395 US 444, **LANDMARK COMMUNICATIONS V VA**, 435 US 819. 1401d continues to fail even worse. What other constitutional law does HB 4674 offend?:

Vagueness- "A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required... A statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application **violates the first essential of due process of law**... regulated parties should know what is required of them so they may act accordingly... precision and guidance are necessary so that those enforcing the law do not act in an arbitrary or discriminatory way." **FOX V FCC**, 567 US --- (2012) The lack of sufficient standards may permit officials to pursue their own personal predilections and subject persons who merit their displeasure to harsh, discriminatory, and arbitrary enforcement. **KOLENDER V LAWSON**, 461 US 352 (1983)

A mental health professional's prognosis of "relapse" or "harmful deterioration", or "competent clinical opinion" prediction of "harm" are impermissibly vague standards. These vague terms, depending on private conceptions, will result in arbitrary interpretation and application by the government. **IN RE TORSKI**, 918 NE2d 1218,1231(2009) Without more definite standards it is impossible to avoid widely differing opinions as to when a person can be civilly committed. **MAYS V STATE**, 68 P3d 1114,1120 (2003) The phrases are susceptible to differing interpretations. The lack of specificity in a statute authorizing interference with fundamental liberties places insufficient limits on the discretion of officials resulting in arbitrary enforcement. **GOLDY V BEAL**, 429 FS 640,648 (1976) (3-Judge Court) "Relapses" cannot be illegal without serious immediate dangerousness based upon objective facts not subjective opinion.

Overbreadth- 330.1401(d) and HB 4674 also violate the overbreadth doctrine because they could be used against constitutionally protected expression, thoughts and conduct. **US V STEVENS**, 559 US 460 (2010) The statute must be narrowly drawn to ensure that only persons who present risk of serious injury in the near future are committed. The statute must define how much harm is sufficient. **MAYS V STATE**, Id. 1121

Substantive due process and equal protection- require a compelling/essential state interest narrowly tailored in a least restrictive manner to deprive fundamental liberties (1st Amend., bodily integrity, privacy). Psychiatric commitments are required to ensure that the degree and probability of harm is sufficiently serious to outweigh the deprivations of liberty. **IN RE TORSKI**, Id. 1230 "Due process and equal protection require that the standards for commitment must be (a) that the person is mentally ill and poses a serious threat of substantial harm to himself or others; and (b) that this threat of harm has been evidenced by a recent overt act or threat. **DOREMUS V FARRELL**, 407 FS 509,515 (1975) (3-Judge Court) It is settled that a state may not civilly commit a person unless the potential harm is great enough to justify a massive curtailment of liberty. **SUZUKI V YUEN**, 617 F2d 173,176 (1980) "If an individual can make a meaningful choice not to receive treatment, he must be allowed to make that choice. The state's interest in protecting him from harm does not outweigh the competent individual's right to make and carry out what is, perhaps, one of the most important decisions of his life." **COLYAR v JUDICIAL COURT**, 469 FS 424,432 (1979)

The MH Code should exclude clinical/psychiatric expectations or determinations of "harmful deteriorations" or "harm" because the scientific community agrees that such predictions of dangerousness (and their methods/principles) are very unreliable -error rates 50%+, and are easily falsified, and thus not relevant and reliable as required by the rules of evidence, MRE 401, 402, 702, EDRY V ADELMAN, 486 MICH 634, DAUBERT V MERRELL DOW, 509 US 579, and due process. So-called experts, who are wrong more often than right, do not assist the trier of fact in determining dangerousness, and thus the clinical certificates relied upon in HB 4674's reforms of 1401c,d are not admissible in a court of law. Additionally, any probative value would pale in comparison to the danger of unfair prejudice by these financially conflicted professionals, MRE 403. Clinical prognoses of harmfulness is much less reliable than polygraph evidence which is inadmissible, over consent, in all states. Even the M.H. professions themselves have admitted that M.H. professionals have no better ability to predict dangerousness than laypersons, which means they do not have a specialized knowledge or skill that justifies their testimony on the issue. The continued participation of psychiatrists "in the legal process is a travesty." ZISKEN & FAUST, 1988, p.76. The "harm" found in HB 4674's commitment criteria exists just in the minds of Doctors, but "the whole point of DAUBERT is that experts can't speculate." EDRY, P.642.

Involuntary psychiatric exams should be prohibited to begin with under the 5th Am. right to remain silent, and 1st Am. right not to speak. "If respondent is really a danger...the state should be able to prove it through other means." IN RE BAKER, 117 MICH App 583, Cavanagh dissenting.

HB4674 and 1401d criteria and methods of administration also offend the ADA Title 2 and Fed Rehab Act. The "direct threat" exception requires objective evidence of recent overt acts of threats of harm. The harm must be substantial, serious, or significant. Disability discrimination law also prohibits interference, intimidation or coercion of a person for exercising or enjoying their equal civil rights, 42 USC 12203(b). And state and local governments are subjected to liability, 42 USC 12202, 2000d-7 HB4674 would expose disabled persons to catastrophic and devastating harms, and loss of fundamental civil rights, based on the speculations of biased quacks. The ADA and FRA apply to all state and local policies and practices, laws and rules, services and programs. And like the Constitutional least restrictive means test, Discrimination law requires that the direct threat cannot be prevented by other means.

The state and local govts and their agencies do not have immunity and may be held liable for rights violations resulting from unconstitutional policies or practices. MONELL V DEPT OF SOCIAL SERVICES, 436 US 658, SMITH V DEPT OF PUBLIC HEALTH, 428 MICH 540. Every public official takes an oath of loyalty to the constitutions, and to do their duty to best of ability, so every official should care about knowing if policies contravene the constitutions. "There is no position which depends on clearer principles than that every act of a delegated authority contrary to the tenor of the commission under which it is exercised is void. No legislative act therefore contrary to the constitution can be valid. To deny this would be to affirm that the deputy is greater than his principal, that the servant is above his master, that the representatives of the people are superior to the people themselves, that men acting by virtue of powers may do" what is forbidden. FEDERALIST #78

HB4674's inclusion of 1468(2)(E)(i)(ii) and 1433(3)(a)(b) make 1401d and HB4674 much more unconstitutional. This provision says the court may order medication and blood tests determine compliance with or effectiveness of medication. Repeal of this should be the legislature's 1st order of business. Witnesses to these drugs and medical science has established that non-consensual APD drugging usually constitute serious crimes.

Forced psychotropic drug interference with the freedom of thought is a substantially greater offense than abridging freedom of speech because impairing thought can result in the violation of virtually all political, legal participation, social, economic and cultural rights and activities, and can interfere with a person's ability to protect all of their rights. 1468 and 1433 (which permit Doctors to prescribe whatever they want, against informed consent, for up to 180 days) are even more violative of the 1st Am. and overbreadth, procedural due process and vagueness, substantive due process interest-balancing, equal protection and disability discrimination, privacy and religious liberty than is HB4674's 1401c and d.

No other state has an AOT law that is as violative of the constitutions as HB4674 proposes to do. Most states recognize that civil commitment does not abrogate the right to refuse psychotropic drugs, and require separate, different proceedings to override informed consent. Because Michigan fails to do so, 1401c commitments result in forced drugging. This again greatly worsens the unconstitutionality of HB4674. The very harmful and very counter-therapeutic, and typically unhelpful quality of psych drugs, and the deceptiveness of psychiatrists about the drugs are key reasons legislators should reject HB4674 and ensure recipients right to informed consent. Health policy should be grounded in patient satisfaction instead of Doctor satisfaction. Doctors prescribing 2 billion dollars worth of APDs to the VA for PTSD until they finally figured out it didn't help, or massively prescribing APDs to the elderly even though they know it causes early death, or Harvard medical school psychiatrists taking millions of dollars from drug co. to provide bogus scientific support for prescribing APDs to children, or prescribing APDs and/or Valproate to pregnant women are just a few symptoms of an incompetent, careless, corrupt and untrustworthy psychiatric profession. HB4674 warrants very strict scrutiny.

I would be happy to provide much more information on psychiatric drugs and psychiatry later and at your request.

Thank you. Sincerely,



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